

REMARKS

Claims 1-37 were pending in the present application. In the foregoing amendments, Claims 35-37 have been amended, and new claim 38 has been added. Support for these amendments can be found in the specification and claims of the application as filed. No new matter has been added by these amendments.

Applicants respectfully request entry of the foregoing amendments and reconsideration of the application in light of the amendments above and the remarks below.

I. Claims 1, 2, 4-6, 8, 9, 11, 13, 15-17, 19, 20, 22, 23, 25-32 and 35 Rejected Under 35 U.S.C. § 102

In the Office Action mailed on December 31, 2007 (hereinafter, “Office Action”), claims 1, 2, 4-6, 8, 9, 11, 13, 15-17, 19, 20, 22, 23, 25-32 and 35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,269,423 to Lee et al. (hereinafter, “Lee”). Applicants respectfully traverse.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not disclose all of the subject matter in these claims.

Independent claim 1 recites “first logic to determine if each of one or more remote devices corresponding to one or more data transmission indicators has a capacity reservation in an admission profile.” Lee does not disclose this subject matter.

The Office Action asserts that the “remote devices” are disclosed by “MS1” in Figure 1 of Lee. (See Office Action, page 2.) In addition, the Office Action asserts that “[a] scheduler” is

the “BTS” in Figure 1 of Lee. (Id.) Further, the Office Action asserts that the “first logic” is step 504 in Figure 9 of Lee. (Id.) Regarding this step, Lee states:

[I]n step 504 the BSC controller 311 determines whether radio resources are available, that is, whether the SDU/RLP resources with which to establish a communication path with the MS are available in the BSC.

Lee, col. 9, lines 44-47.

Simply determining whether radio resources are available does not disclose “determin[ing] if each of one or more remote devices . . . has a capacity reservation in an admission profile.” A “capacity reservation” implies that the capacity has been previously set aside (*i.e.* reserved) for a remote device. Lee merely discloses that the “BSC controller . . . determines whether radio resources are available.” There is no disclosure in the above-cited passage of Lee of determining whether or not “a capacity reservation in an admission profile” exists. Lee does not disclose whether or not the “MS1” has “a capacity reservation in an admission profile.”

Further, as previously stated, the Office Action asserts that the BTS in Figure 1 is “[a] scheduler”. (See Office Action, page 2.) However, the Office Action later asserts that it is “the BSC controller” that includes the “first logic to determine if each of one or more remote devices corresponding to one or more data transmission indicators has a capacity reservation in an admission profile.” (See Office Action, page 2.) Lee clearly indicates in Figure 1 that the BTS is not the BSC (BTS 10-a and BSC 20). In other words, the Office Action first asserts that the BTS discloses “[a] scheduler” but later, the Office Action attempts to assert that it is the BSC that includes the “first logic to determine if each of one or more remote devices corresponding to one or more data transmission indicators has a capacity reservation in an admission profile.” As previously stated, Lee does not disclose that the BTS and the BSC are the same entity.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Lee. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claims 2 and 4-6 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2 and 4-6 be withdrawn.

Claims 8, 22, 23, 25, 30, 31 and 35 include subject matter similar to the subject matter of claim 1 provided above. As such, Applicants respectfully submit that claims 8, 22, 23, 25, 30, 31 and 35 are patentably distinct from Lee for at least the same reasons as those provided above in connection with claim 1. Accordingly, Applicants respectfully request that the rejection of claims 8, 22, 23, 25, 30, 31 and 35 be withdrawn. (Applicants note that claim 35 has been amended to correspond with claim 25.)

Claims 9, 11, 13, 15-17, 19 and 20 depend either directly or indirectly from independent claim 8. Claims 26-29 depend either directly or indirectly from independent claim 25. Claim 32 depends directly from claim independent 31. Accordingly, Applicants respectfully request that the rejection of claims 9, 11, 13, 15-17, 19-20, 26-29 and 32 be withdrawn.

II. Claims 7, 12 and 18 Rejected Under 35 U.S.C. § 103

Claims 7, 12 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,728,270 Meggers et al. (hereinafter, “Meggers”). Applicants respectfully traverse.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). To establish a *prima facie* case of obviousness, the prior art references “must teach or suggest all the claim limitations.” M.P.E.P. § 2142. Moreover, the analysis in support of an obviousness rejection “should be made explicit.” KSR, 2007 U.S. LEXIS 4745, at **37. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter in these claims.

Claim 7 depends indirectly from claim 1. Claims 12 and 18 depend either directly or indirectly from claim 8. Accordingly, Applicants respectfully request that the rejection of claims 7, 12 and 18 be withdrawn.

III. Claims 3, 10 and 21 Rejected Under 35 U.S.C. § 103

Claims 3, 10 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,567,387 to Dulin (hereinafter, “Dulin”). Applicants respectfully traverse. The standard to establish a *prima facie* case of obviousness is provided above. (See M.P.E.P. § 2142.)

Claim 3 depends indirectly from claim 1. Claims 10 and 21 depend indirectly from claim 8. Accordingly, Applicants respectfully request that the rejection of claims 3, 10 and 21 be withdrawn.

IV. Claims 14, 24, 33 and 34 Rejected Under 35 U.S.C. § 103

Claims 14, 24, 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,650,630 to Haartsen (hereinafter, “Haartsen”). Applicants respectfully traverse. The standard to establish a *prima facie* case of obviousness is provided above. (See M.P.E.P. § 2142.)

Claim 14 depends directly from claim 8. Claim 24 depends directly from claim 23. Claims 33 and 34 depend directly from claim 31. Accordingly, Applicants respectfully request that the rejection of claims 14, 24 and 33-34 be withdrawn.

V. Claim 36 Rejected Under 35 U.S.C. § 103

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 7,085,279 to Kumar et al. (hereinafter, “Kumar”). Applicants respectfully traverse. The standard to establish a *prima facie* case of obviousness is provided above. (See M.P.E.P. § 2142.)

Independent claim 36 recites “granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity

reservation for the one or more remote devices.” Lee, alone or in combination with Kumar, does not teach or suggest this subject matter.

The Office Action appears to assert that the “granting” process is step 504 in Figure 9 of Lee. (See Office Action, page 10.) Regarding this step, Lee states:

[I]n step 504 the BSC controller 311 determines whether radio resources are available, that is, whether the SDU/RLP resources with which to establish a communication path with the MS are available in the BSC.

Lee, col. 9, lines 44-47.

Simply determining whether radio resources are available does not disclose “granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity reservation for the one or more remote devices.” A “capacity reservation” implies that the capacity has been previously set aside (*i.e.* reserved) for a remote device. Lee merely discloses that the “BSC controller . . . determines whether radio resources are available.” There is no disclosure in the above-cited passage of Lee of determining whether or not “the admission profile includes a capacity reservation for the one or more remote devices.” Lee does not disclose whether or not the “MS1” has “a capacity reservation” in an admission profile.

The addition of Kumar does not overcome the deficiencies of Lee. The Office Action merely points to Kumar to support the assertion that “Kumar . . . discloses a computer readable medium.” (Office Action, page 10.) The Office Action does not point to, and Applicants cannot find, any teaching or suggestion by Kumar of “granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity reservation for the one or more remote devices.”

In view of the foregoing, Applicants respectfully submit that claim 36 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 36 be withdrawn. (Applicants note that the preamble of claim 36 has been amended to be compliant with the PTO’s Guidelines.)

VI. Claim 37 Rejected Under 35 U.S.C. § 103

Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Kumar and further view of Haartsen. Applicants respectfully traverse. The standard to establish a *prima facie* case of obviousness is provided above. (See M.P.E.P. § 2142.)

Claim 37 depends directly from claim 36. Accordingly, Applicants respectfully request that the rejection of claim 37 be withdrawn.

VII. New Claim 38

New claim 38 recites features similar to those found in independent claim 25 (or 35). Therefore, claim 38 is also allowable for at least the reasons noted for claim 25.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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